

DUCivR 54-2 COSTS: TAXATION OF COSTS AND ATTORNEYS' FEES

Approved by Rules Committee on January 8, 2008

Published for comment on the Court's website on January 10, 2008

Reporter's note: The current local rule was enacted prior to the amendment of the FRCP 54(d)(2)(B). The local rule set a thirty day period and the national rule has set a fourteen day period. The local rule is amended to be consistent with the national rule.

1. (a) Bill of Costs.

Within twenty (20) days after the entry of final judgment, the party entitled to recover costs must file a bill of costs on a form available from the clerk of court, a memorandum of costs, and a verification of bill of costs under 28 U.S.C. § 1924. The memorandum of costs must (i) clearly and concisely itemize and describe the costs; (ii) set forth the statutory basis for seeking reimbursement of those costs under 28 U.S.C. § 1920; and (iii) reference and include copies of applicable invoices, receipts, and disbursement instruments. Failure to itemize and verify costs may result in their being disallowed. Proof of service upon counsel of record of all adverse parties must be indicated. Service of the bill of costs by mail is sufficient and constitutes notice as provided by Fed. R. Civ. P. 54(d).

(b) Objections to Bill of Costs.

Where a party objects to any item in a bill of costs, such objections must be set forth with any supporting affidavits and documentation and must be filed with the court and served on counsel of record of adverse parties within ten (10) days after filing and service of the bill of costs.

(c) Taxation of Costs.

Where no objections are filed, the clerk will tax the costs and allow such items as are taxable under law. Where objections are filed, a hearing may be scheduled at the discretion of the clerk to review the bill of costs and the objections to it. Costs taxed by the clerk will be included in the judgment or decree.

(d) Judicial Review.

Taxation of costs by the clerk is subject to review by the court when, under Fed. R. Civ. P. 54(d), a motion for review is filed within five (5) days of the entry on the docket of the clerk's action.

(e) Attorneys' Fees.

Attorneys' fees will not be taxed as costs. Motions for attorneys' fees will be reviewed by the court and awarded only upon order of the court.

(f) Procedures and Requirements for Motions for Attorneys' Fees.

Unless otherwise provided by statute or extended by the court under Fed. R. Civ. P. 6(b), a motion for attorneys' fees authorized by law must be filed and served within ~~thirty (30)~~ **fourteen (14)** days after (i) entry of a judgment or (ii) an appeals court remand that modifies or imposes a fee award. Such motion must conform to the provisions of DUCivR 7-1 of these rules. The

motion must (i) state the basis for the award; (ii) specify the amount claimed; and, (iii) be accompanied by an affidavit of counsel setting forth the scope of the effort, the number of hours expended, the hourly rates claimed, and any other pertinent supporting information that justifies the award.

See DUCivR 54-1 for provisions regarding orders, judgments, and findings of fact and conclusions of law.